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TO:

Name: Mail Stop 313(c)
Group Art Unit 3732/Examiner Eduardo Robert

Firm: U.S. Patent & Trademark Office

Fax No.: 703-872-9306

Subject: U.S. Patent Application No. 10/736,866
Gary K. Michelson

Filed: December 16, 2003

**BONE HEMI-LUMBAR INTERBODY SPINAL
FUSION IMPLANT HAVING AN
ASYMMETRICAL LEADING END AND
METHOD OF INSTALLATION THEREOF**

Attorney Docket No. 101.0089-02000

Customer No. 22882

Confirmation No.: 9083

FROM:

Name: Amedeo F. Ferraro

Phone No.: 310-286-9800

No. of Pages (including this): 19

Date: June 9, 2005

Confirmation Copy to Follow: NO

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Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate; total amount of \$2,220.00 to cover the \$130 Petition fee, \$790 RCE fee, and \$1,300 additional claims fee is to be charged to Deposit Account No. 50-1068), Petition to Withdraw From Issue Under 37 C.F.R. § 1.313(c)(2), Request for Continued Examination (RCE), Amendment, and Information Disclosure Statement Under 37 C.F.R. § 1.97(b) with Form PTO-1449 are being facsimile transmitted to the U.S. Patent and Trademark Office on June 9, 2005.


Sandra L. Blackmon

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FORM PTO-1083

Attorney Docket No.: 101.0089-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 10/736,866

Filed: December 16, 2003

For: BONE HEMI-LUMBAR INTERBODY SPINAL
FUSION IMPLANT HAVING AN
ASYMMETRICAL LEADING END AND
METHOD OF INSTALLATION THEREOF

Confirmation No.: 9083

Art Unit: 3732

Examiner: Eduardo Robert

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JUN - 9 2005

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1460
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Petition to Withdraw From Issue Under 37 C.F.R. § 1.313(c)(2), Request for Continued Examination (RCE), and Amendment in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a ***month extension of time to respond to the above office action.
- ☒ An Information Disclosure Statement Under 37 C.F.R. § 1.97(b) and Form PTO 1449 are enclosed.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	58	-	30	25	LG-\$50 SM=\$25	\$50	\$ 1,300.00
INDEPENDENT CLAIMS FEE	3	-	3	0	LG-\$200 SM=\$100	\$200	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$360 SMALL ENTITY FEE = \$180		\$ 0
TOTAL							\$ 1,300.00

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ The total amount of \$2,220.00 to cover the \$130 Petition fee, \$790 RCE fee, and \$1,300 additional claims fee is to be charged to Deposit Account No. 50-1068.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1068. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,

MARTIN & FERRARO, LLP

By:

Amedeo F. Ferraro

Registration No. 37,129

Date: June 9, 2005

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Transmittal of Amendment.DOC

PTO/SB/30 (04-05)

Approved for use through 07/31/2005. OMB 0551-0051
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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/796,866
Filing Date	December 16, 2003
First Named Inventor	Gary K. Michelson
Art Unit	3732
Examiner Name	Eduardo Robert
Attorney Docket Number	101.0089-02000

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

- Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
 - ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
 - ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
 - ☐ Other _____
 - ☒ Enclosed
 - ☒ Amendment/Reply
 - ☐ Affidavit(s)/Declaration(s)
 - ☒ Information Disclosure Statement (IDS)
 - ☒ Other Petition to Withdraw From Issue
- Miscellaneous**
 - ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)
 - ☐ Other _____
- Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment or fees, or credit any overpayments, to Deposit Account No. 50-1068. I have enclosed a duplicate copy of this sheet.
 - ☒ RCE fee required under 37 CFR 1.17(e) 06/14/2005 CCRAU1 00000016 501068 10736866
 - ☐ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:1801 790.00 DA
02 FC:1202 1300.00 DA
 - ☒ Other additional claims fee as indicated in the attached Transmittal Form
 - ☐ Check in the amount of \$ _____ enclosed
 - ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	<i>[Signature]</i>	Date	June 9, 2005
Name (Print/Type)	Eduardo P. Ferraro	Registration No.	37,129

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	<i>[Signature]</i>	Date	June 9, 2005
Name (Print/Type)	Sandra L. Blackmon		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.